

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

KIMBERLEE WILLIAMS, individually, as personal representative of the Estate of Charles L. Williams, deceased on behalf of said estate, and as representative of others similarly situated; **NANCY PEASE**, individually, as personal representative of the Estate of William Clark, deceased on behalf of said estate, and as representative of others similarly situated; **MARILYN L. HOLLEY**, as personal representative of the Estate of Kathryn Darnell, deceased on behalf of said estate, and as representative of others similarly situated; **DONNA WARE**, individually as personal representative of the Estate of Ralph Ware, deceased on behalf of said estate, and as representative of others similarly situated; and **DONNETTE WENGERD**, individually, as personal representative of the Estate of Jennifer Graham, deceased on behalf of said estate, and as representative of others similarly situated, and **ROSANNE CHERNICK**, individually, as personal representative of the Estate of Steven Chernick, deceased on behalf of said estate, and as representative of others similarly situated,

Plaintiffs,

v.

BASF CATALYSTS LLC, CAHILL GORDON & REINDEL LLP, CAHILL GORDON & REINDEL, a partnership including a professional corporation, **THOMAS D. HALKET, ARTHUR A. DORNBUSCH II, GLEN HEMSTOCK, HOWARD G. SLOANE (A/K/A "PETER SLOANE"), IRA J. DEMBROW, JOHN DOE BUSINESS ENTITIES 1 to 100; JOHN DOE BUSINESS ENTITIES 101 to 200; JOHN DOE LAWYERS 1 to 500;** and, **JOHN DOE 1 to 500**,

Defendants.

Eugene F. Assaf, P.C. (*pro hac vice*)
Michael F. Williams
Daniel A. Bress (*pro hac vice*)
Peter A. Farrell (*pro hac vice*)
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*Counsel for Defendant
BASF Catalysts LLC*

Civil Action No. 11-cv-1754 (JLL) (JAD)

CIVIL ACTION

**NOTICE OF MOTION TO DISMISS COUNT
III OF PLAINTIFFS' SECOND AMENDED
COMPLAINT AND MOTION TO STRIKE
CERTAIN REQUESTS FOR RELIEF**

Oral Argument Requested

Electronically Filed

TO: Christopher M. Placitella, Esquire
Michael Coren, Esquire
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& Reindel LLP, Cahill Gordon &
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Dembrow, and Scott A. Martin*

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*Counsel for Defendant Arthur A.
Dornbusch II*

PLEASE TAKE NOTICE that on a time and date to be determined by the Court, or as soon thereafter as counsel may be heard, the undersigned attorneys for Defendant BASF Catalysts LLC (“Defendant”), shall move before the Honorable Jose L. Linares, U.S.D.J., United States District Court, District of New Jersey, Martin Luther King Building & U.S. Courthouse, 50 Walnut Street Room 4015, Newark, New Jersey 07101, for an Order granting its Motion to Dismiss Count III and to Strike Certain Requests For Relief from the Second Amended Complaint.

PLEASE TAKE FURTHER NOTICE that in support of its motion, Defendant will rely on its Memorandum of Law. A proposed form of Order is also enclosed; and

PLEASE TAKE FURTHER NOTICE that oral argument is requested.

Date: September 25, 2015

Respectfully submitted,

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Daniel A. Bress (*pro hac vice*)
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Counsel for Defendant
BASF Catalysts LLC

CERTIFICATE OF SERVICE

Pursuant to the Court's June 26, 2015 Order, I certify that on this day counsel for the following parties were served electronically with Defendant BASF Catalysts LLC's Notice of Motion to Dismiss Plaintiffs' Amended Complaint, Memorandum of Law, and proposed form of Order:

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Counsel for Defendant Arthur A. Dornbusch II

September 25, 2015

/s/ Stephen M. Orlofsky
Stephen M. Orlofsky

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

KIMBERLEE WILLIAMS, individually, as personal representative of the Estate of Charles L. Williams, deceased on behalf of said estate, and as representative of others similarly situated; **NANCY PEASE**, individually, as personal representative of the Estate of William Clark, deceased on behalf of said estate, and as representative of others similarly situated; **MARILYN L. HOLLEY**, as personal representative of the Estate of Kathryn Darnell, deceased on behalf of said estate, and as representative of others similarly situated; **DONNA WARE**, individually as personal representative of the Estate of Ralph Ware, deceased on behalf of said estate, and as representative of others similarly situated; and **DONNETTE WENGERD**, individually, as personal representative of the Estate of Jennifer Graham, deceased on behalf of said estate, and as representative of others similarly situated, and **ROSANNE CHERNICK**, individually, as personal representative of the Estate of Steven Chernick, deceased on behalf of said estate, and as representative of others similarly situated,

Plaintiffs,

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BASF CATALYSTS LLC, CAHILL GORDON & REINDEL LLP, CAHILL GORDON & REINDEL, a partnership including a professional corporation, **THOMAS D. HALKET, ARTHUR A. DORNBUSCH II, GLEN HEMSTOCK, HOWARD G. SLOANE (A/K/A “PETER SLOANE”), IRA J. DEMBROW, JOHN DOE BUSINESS ENTITIES 1 to 100; JOHN DOE BUSINESS ENTITIES 101 to 200; JOHN DOE LAWYERS 1 to 500;** and, **JOHN DOE 1 to 500**,

Defendants.

Civil Action No. 11-cv-1754 (JLL) (JAD)

CIVIL ACTION

ORDER

Electronically Filed

THIS MATTER having been opened to the Court by Blank Rome LLP, a Pennsylvania LLP, attorneys for the Defendant, BASF Catalysts LLC (“Defendant”), by way of a Motion to Dismiss and to Strike under Fed. R. Civ. P. 12(b)(6) and Fed. R. Civ. P. 12(f), and Stephen M. Orlofsky, Esquire, of Blank Rome LLP appearing on behalf of Defendant; Christopher M. Placitella, Esquire, of Cohen Placitella & Roth PC appearing on behalf of Plaintiffs; Robert E. Ryan, Esquire, of Connell Foley LLP appearing on behalf of Defendants Cahill Gordon & Reindel LLP, Cahill Gordon

& Reindel, Howard Sloane, Ira J. Dembrow, and Scott Martin; Eric Tunis, Esquire, of Greenbaum Rowe Smith & Davis LLP appearing on behalf of Defendant Thomas D. Halket; Kevin Marino, Esquire, of Marino Tortorella & Boyle PC appearing on behalf of Defendant Arthur A. Dornbusch II; and Walter Timpone, Esquire, of McElroy Deutsch Mulvaney & Carpenter LLP appearing on behalf of Defendant Glen Hemstock; and for good cause shown:

IT IS ON THIS ____ DAY OF _____ 201_,

ORDERED that Defendant's Motion to Dismiss Count III and to Strike Certain Requests for Relief from Plaintiffs' Second Amended Class Action Complaint is hereby **GRANTED**; and it is further

ORDERED that Plaintiffs' request for compensatory and punitive damages are hereby stricken from the Second Amended Complaint; plaintiffs' requests for injunctive and declaratory relief are hereby stricken insofar as they are inconsistent with the Third Circuit's ruling; and Plaintiffs' claim for civil conspiracy is dismissed in its entirety; and it is further

ORDERED that a copy of this Order shall be served upon all parties within ____ days of the date hereof.

Hon. Jose L. Linares, U.S.D.J.